

Competition law - control of concentrations between undertakings

Abstract

The subject of this thesis is the control of mergers as it is regulated by Czech laws. Control of mergers is one of the cornerstones of competition law.

Competition is an important attribute of the market oriented economies all over the world. Since it is not capable of self-regulation it is necessary to set limits for the behavior of the subjects that are taking part in this competition. These limits are set by competition law.

The topic is divided into three chapters. The first chapter contains definition of the term competition, in the second there are described basic terms common to all areas of competition law, while at the end of this chapter there is a description of these areas. In the last chapter focus is on control of concentrations itself in the ambit of Czech law.

The aim of this work is to describe merger control as it is provided by Act No. 143/2001 on Protection of Competition (ZOHS). The emphasis is on describing different forms of merger and their characteristics which must be met so that a certain transaction could be classified as a merger.

Furthermore, this work provides information on conditions that must be fulfilled so that a merger, division of a company and termination of the company accompanied by transfer of assets to its partner - according to the Czech law on transformations of companies - could be regarded as a merger by the course of competition law. The analysis of different forms of mergers as they are described by ZOHS leads to the conclusion that transformations of companies can only meet criteria of two of these forms. These two forms are mergers in the strict sense and the acquisition, by one or more persons already controlling one or more undertakings, or by one or more undertakings.

Merger control would not be complete without a description of notification criteria and the substantive test which are used when deciding on whether a merger can be allowed or not.

This thesis also describes control of concentrations between undertakings according to European legislation on which the Czech policy is based.